

LEGISLATIVE ASSEMBLY

Read 1° 18 April 1984

(Brought in by Mr Mathews and Mr Fordham)

A BILL

To amend the *Pipelines Act 1967* with respect to the procedures to be followed in applications for permits under Part II. of that Act and the manner in which such applications are to be determined and for other purposes.

5 BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :

Short title.

1. This Act may be cited as the *Pipelines (Permits) Act 1984*.

Commencement.

- 10 2. This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.

Principal Act.

No. 7541.
Amended by
Nos. 8122, 8131,
8353, 8953,
9593, 9762,
9797, 9921 and
9926 and by S.R.
93/1974.

3. In this Act the *Pipelines Act 1967* is referred to as the Principal Act.

Determination of applications made pursuant to section 9.

4. Section 11 of the Principal Act shall be amended as follows: 5
- (a) For sub-section (2) there shall be substituted the following sub-section:
- “(2) The Minister shall not determine an application made pursuant to section 9 until—
- (a) at least thirty days after the last publication of the notice pursuant to sub-section (1); 10
- (b) at least thirty days after the expiration of the time (if any) within which the Minister has directed notice of the application to be given or published under section 12D (1); or 15
- (c) after the provisions of sections 12C and 12E (b) and (c) and, where applicable, sections 12D and 12E (a) have been complied with—
- whichever is the later.”; and
- (b) Sub-section (3) shall be repealed. 20

Granting of permit under section 12 (1).

5. Section 12 of the Principal Act shall be amended as follows:
- (a) In sub-section (1) for the expression “receives the application, and after considering any objections that may be made” there shall be substituted the expression “has determined in accordance with the provisions of this Part the application made pursuant to section 9”; and 25
- (b) After sub-section (2) there shall be inserted the following sub-section:
- “(2A) A permit shall not be granted under sub-section (1) until after any necessary amendment to any interim development order, planning scheme or local development scheme has been made pursuant to section 12G.”. 30

Granting of new, consolidated or varied permit under section 12A.

6. Section 12A of the Principal Act shall be amended as follows:

(a) After sub-section (3) there shall be inserted the following sub-section:

5 “(3A) The Minister shall not determine an application made under sub-section (1) until—

(a) at least thirty days after the publication of the notice pursuant to sub-section (4) (b);

10 (b) at least thirty days after the expiration of the time (if any) within which the Minister has directed notice of the application to be given or published under section 12D (1); or

15 (c) after the provisions of sections 12C and 12E (b) and (c) and, where applicable, sections 12D and 12E (a) have been complied with—

whichever is the later.”;

20 (b) In sub-section (4) for the words “consideration of any objections that may be made” there shall be substituted the words “determining the application in accordance with the provisions of this Part”; and

(c) After sub-section (5) there shall be inserted the following sub-section:

25 “(6) A permit shall not be varied or granted under this section until after any necessary amendment to any interim development order, planning scheme or local development scheme has been made pursuant to section 12G.”.

New sections 12C–12H inserted.

7. After section 12B of the Principal Act there shall be inserted the following sections:

30 Copy of application to be sent to other Ministers.

35 “12C. Where an application is made to the Minister under section 9 (1) or section 12A (1), the Minister shall forthwith cause a copy of the application to be sent to the Minister administering the *Town and Country Planning Act 1961* and, where applicable, to the Minister administering the *Environment Effects Act 1978*.”.

Minister may direct additional notice of application to be given.

“12D. (1) The Minister may, after receiving an application under section 9 (1) or section 12A (1)—

40 (a) where the Minister is of the opinion that the grant of a permit or of a consolidated permit may cause a substantial

- detriment to any person other than the applicant, cause notice in writing of the application to be given in such manner and within such time as the Minister specifies to such government departments, public authorities, municipal councils, persons or bodies of persons as are specified by the Minister or direct in writing the applicant to give such notice; 5
- (b) cause notice of the application to be published in such manner (whether by means of affixing notice of the application to the land along the proposed route or proposed additional route of the pipeline or otherwise) and within such time as the Minister specifies or direct in writing the applicant to publish such notice; or 10
- (c) cause the things referred to in both paragraph (a) and paragraph (b) to be done or direct in writing the applicant to do both such things. 15
- (2) Every notice given or published pursuant to sub-section (1)—
- (a) shall be in the prescribed form;
- (b) shall contain such matters as are prescribed; and
- (c) shall state that until the end of such period as is specified in the notice all persons who may be affected by the grant of the application may send to the Minister any written submissions which they may wish to make with respect to the application and that any such submission may state that the person making the submission wishes to be heard with respect to the submission. 20 25
- (3) At any time during the period specified in the notice given or published pursuant to sub-section (1) any person may lodge with the Minister submissions in writing concerning the application.
- (4) The Minister shall consider all submissions made in accordance with this section and, if the Minister so desires, any other submissions in writing concerning the application and any matter that in the opinion of the Minister is relevant to the application and shall determine in respect of each such submission to do one of the following: 30
- (a) Determine the application in a manner that is not inconsistent with anything requested in the submission; or 35
- (b) Refer the submission to a panel appointed under this section.
- (5) Notwithstanding sub-section (4), it shall not be necessary for the Minister to refer a submission to a panel where—
- (a) the Minister is notified by the person who made the submission that the matters in dispute between the maker of the submission and the applicant have been resolved by discussions between them; 40
- (b) the submission is withdrawn by the person who made the submission; or 45

(c) the submission does not relate to any matter of a planning or environmental nature but relates solely to matters that, in the opinion of the Minister, do not warrant consideration by a panel.

5 (6) The Minister shall appoint a panel to consider all submissions referred to a panel by the Minister pursuant to this section.

(7) A panel shall consist of three members of whom—

(a) one (who shall be the chairman) shall be a person nominated by the Minister;

10 (b) one shall be a person having experience in town and country planning and who is nominated by the Minister administering the *Town and Country Planning Act 1961*; and

(c) one shall be—

15 (i) where the Minister considers it appropriate (having regard to the nature of the submissions to be considered by the panel) for the panel to have as a member a person having experience in environmental matters, a person having experience in environmental matters and who is nominated by the Minister administering the *Environment Effects Act 1978*; or

20 (ii) in any other case, a person nominated by the Minister.

(8) The Minister may at any time terminate the appointment of a member of a panel.

25 (9) In the event of an equality of votes at any meeting of a panel the chairman shall have an additional or casting vote.

(10) Where there is a vacancy in the membership of a panel the Minister may appoint another member.

30 (11) Each member of a panel (not being a person employed by or on behalf of the Crown) shall be entitled to receive such fees and allowances (if any) as are from time to time fixed by the Minister in respect of that member.

35 (12) The panel shall give a reasonable opportunity of being heard by it to any person who has stated in a submission which is referred to the panel by the Minister that he wishes to be heard with respect thereto.

(13) All hearings of a panel shall be held in public unless any person making a submission objects to making that submission in public and the panel is satisfied that the submission is of a confidential nature.

40 (14) Subject to this section, a panel shall regulate its own proceedings.

(15) After conducting hearings in accordance with this section and considering the submissions referred to it by the Minister, the panel

shall report to the Minister on the submissions and make a recommendation to the Minister as to the action which it believes should be taken with respect to the application.

(16) The report of a panel and its recommendation shall be forwarded to the Minister within sixty days after the relevant submissions have been referred to it or within such other period as the Minister may specify when referring the submissions to it. 5

(17) A panel shall send a copy of its report and recommendation and of the submissions considered by it to the Minister administering the *Town and Country Planning Act 1961* and, where applicable, to the Minister administering the *Environment Effects Act 1978* within the period of time within which its report and recommendation is to be forwarded to the Minister pursuant to sub-section (16).” 10

Matters to be taken into consideration by the Minister.

“12E. In determining an application under section 9 (1) or section 12A (1), the Minister shall take into consideration— 15

(a) the report of the panel (if any) appointed under section 12D and the recommendation made by it;

(b) any written comments submitted to the Minister by the Minister administering the *Town and Country Planning Act 1961* on the affect of the proposed pipeline on the planning of the area through which it is intended to pass; and 20

(c) where applicable, the assessment of the Minister administering the *Environment Effects Act 1978* of the environmental effects of the proposed pipeline.” 25

Proposed authorized route of pipeline must be satisfactory to Minister for Planning and Environment.

“12F. Where the Minister—

(a) proposes to grant a permit under section 12 (1);

(b) proposes to grant a new permit or a consolidated permit under section 12A; or 30

(c) proposes to vary a permit under section 12A—

the Minister shall cause the Minister administering the *Town and Country Planning Act 1961* to be notified in writing of the proposed authorized route of the pipeline and shall not take any action under section 12G (1) unless the Minister administering the *Town and Country Planning Act 1961* advises the Minister in writing that the proposed authorized route of the pipeline (whether as originally proposed by the Minister or with such variations or alterations as the Minister and the Minister administering the *Town and Country Planning Act 1961* jointly agree to) is satisfactory.” 35 40

Notification to and action by the Minister for Planning and Environment.

“12G. (1) Where the Minister—

(a) proposes to grant a permit under section 12 (1);

5 (b) proposes to grant a new permit or a consolidated permit under section 12A; or

(c) proposes to vary a permit under section 12A—

10 the Minister shall send by post to the Minister administering the *Town and Country Planning Act 1961* a notice containing the prescribed particulars of the permit and upon receipt of that notice the Minister administering the *Town and Country Planning Act 1961* shall forthwith cause application to be made to the Governor in Council for the amendment of any interim development order, planning scheme or local development scheme which relates to land through which the proposed pipeline is intended to pass for the purpose of making the construction and use of the proposed pipeline compatible with that order or scheme.

15 (2) The provisions of section 17 (5) of the *Town and Country Planning Act 1961* shall not apply in the case of an amendment to an interim development order pursuant to this section and the provisions of sections 28, 29 and 30 of that Act shall not apply in the case of an amendment to a planning scheme or local development scheme pursuant to this section.”

Permits under *Town and Country Planning Act 1961*.

25 “12H. Where pursuant to an interim development order, planning scheme or local development scheme made under the *Town and Country Planning Act 1961* an applicant under section 9 (1) or section 12A (1) of this Act would be required to apply for a permit under that order or scheme allowing the use or development of any land or the doing or carrying out of any matter or thing for the purpose of the pipeline, the applicant under section 9 (1) or section 12A (1) of this Act shall, notwithstanding anything to the contrary in the *Town and Country Planning Act 1961*, not be required to apply for a permit under that Act but the provisions of that Act and of any interim development order, planning scheme or local development scheme made under that Act shall be deemed to have been complied with by the applicant if the applicant complies with the provisions of this Part.”

Environment Effects Statement.

“121. Where pursuant to the *Environment Effects Act 1978* an applicant under section 9 (1) or section 12A (1) of this Act is required to prepare an Environment Effects Statement in relation to the application, the period (if any) during which public comments are sought under that Act on the environmental effect of the proposed works shall, notwithstanding anything in that Act, coincide, so far as is practicable, with the period during which pursuant to this Part notice of the application is required to be given or published.”

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